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 8X8, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE STATE OF CALIFORNIA

DENISE RIVAS, on behalf of herself and
 on behalf of all other aggrieved employees,

Plaintiff,

vs.

8X8, INC., a Delaware corporation; and
 DOES 1 through 50, inclusive

Defendants.

Case No. 20cv374192

**JOINT STIPULATION OF CLASS
 ACTION AND PAGA ACTION
 SETTLEMENT AND RELEASE**

Judge: Hon. Sunil R. Kulkarni
 Dept: 1

Complaint Filed: Dec. 1, 2020

IT IS HEREBY STIPULATED, by and between the parties in the two actions entitled: *Denise Rivas, on behalf of herself and on behalf of all other aggrieved employees v. 8X8, Inc., a Delaware corporation, and DOES 1 through 50, inclusive*, United States District court, Northern District of California, Case No. 5:20-cv-07607-LHK (“Class Action”), and *Denise Rivas, on behalf of herself and on behalf of all other aggrieved employees, v. 8X8, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, Santa Clara County Superior Court, Case No. 20CV374192 (“PAGA Action”), namely, DENISE RIVAS, on behalf of herself and on behalf of all other putative class members and aggrieved employees (hereinafter “Rivas”), on the one hand, and Defendant 8X8, INC. (hereinafter “Defendant”), on the other hand, and subject to the approval of the Court,¹ that the Actions are hereby compromised and settled pursuant to the terms and conditions set forth in this Joint Stipulation of Class Action and PAGA Action Settlement and Release (“Agreement,” “Settlement,” “Settlement Agreement,” or “Stipulation of Settlement”) and that the Court shall make and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, and subject to the definitions, recitals, and terms set forth herein which by this reference become an integral part of this Stipulation of Settlement.

DEFINITIONS

1. “Actions” means the putative class and representative actions entitled *Denise Rivas, on behalf of herself and others similarly situated, v. 8X8, Inc., a Delaware corporation, and DOES 1 through 50, inclusive*, United States District court, Northern District of California, Case No. 5:20-cv-07607-LHK (“Class Action”), and *Denise Rivas, on behalf of herself and on behalf of all other aggrieved employees, v. 8X8, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, Santa Clara County Superior Court, Case No. 20CV374192 (“PAGA Action”).

2. “Operative Complaints” mean the Complaints filed by Plaintiff on September 25, 2020, in the Class Action and the December 1, 2020 Complaint filed in the PAGA Action.

3. “Class Counsel” means David Yeremian, Esq. and Roman Shkodnik, Esq. of

¹ The parties agree, as outlined in Section 50 below, that they shall seek approval of the PAGA and Class claims in state court.

David Yeremian & Associates, Inc. and Emil Davtyan of the Davtyan Law Firm, Inc.

4. “Class Counsel Award” means the Court-approved attorneys’ fees for Class Counsel’s litigation and resolution of the Action (not to exceed one-third [33.33%] of the Maximum Settlement Amount, or Three Hundred Thirty-Three Thousand Dollars and 33 cents (\$33,333.33), and the court approved costs incurred by Class Counsel in connection with this Action (not to exceed Thirty Thousand Dollars [\$30,000]).

5. “Class Information” or “Class Lists” means information regarding Class Members that Defendant shall in good faith compile from its records and shall be authorized by the Court to transmit in a secured manner to the Settlement Administrator. Class Information shall be transmitted in Microsoft Excel format and shall include for each Class Member’s: (i) full name; (ii) last known address; (iii) Social Security number; and (iv) the number of workweeks worked for Defendant in California as non-exempt hourly employees during the Class Period.

6. “Class Members” or “Settlement Class” means all current and former non-exempt hourly California employees of Defendant from September 25, 2016, through the date of preliminary approval of the settlement. It shall be an opt-out class.

7. “Class Period” means the period from September 25, 2016, through the date of preliminary approval of the Settlement.

8. “Class Representative Service Award” means the Court-approved amounts to be paid to Plaintiff Denise Rivas in the amount up to Ten Thousand Dollars (\$10,000) in addition to Plaintiff’s Individual Settlement Award, in recognition of Plaintiff’s efforts and risks in prosecuting the Action.

9. “Defendant” means 8x8, Inc.

10. “Defense Counsel” means Jen Cornell, Esq. and Teresa W. Ghali, Esq., both of GBG LLP.

11. “Effective Date” means the date when all of the following events have occurred:

(i) the Stipulation of Settlement has been executed by all Parties, Class Counsel and Defense Counsel; (ii) the parties have stipulated to remand the Class Action to state court; (iii) the state court has assumed jurisdiction of the Class Action and, per the parties’ stipulation or joint motion,

1 has consolidated the Class and PAGA Actions into one action; (iv) the Court, presiding over both
2 the Class Action and PAGA Actions, has given preliminary approval to the Stipulation of
3 Settlement; (v) the Notice of Class Action Settlement has been given to the putative members of
4 the Settlement Class, providing them with an opportunity to object to the terms of this Stipulation
5 of Settlement or opt out of the settlement; (vi) the Court has held a Final Approval Hearing and
6 entered a Final Order and Judgment certifying the Settlement Class, and approving the Stipulation
7 of Settlement, and no objections or motions to intervene have been filed, or they were withdrawn
8 before the Court entered a Final Order and Judgment; or, if an objection or motion to intervene
9 have been filed and were not subsequently withdrawn, the next business day after the period for
10 filing any appeal, writ or other appellate proceeding opposing the Court's Final Order and
11 Judgment has elapsed without any appeal, writ or other appellate proceeding having been filed; or
12 (vii) if a Class Member objects, intervenes or files a motion to vacate the judgment approving the
13 Settlement Agreement, and if a timely appeal is filed, the date of final resolution of that appeal
14 (including any requests for rehearing and/or petitions for certiorari), resulting in final judicial
15 approval of the Settlement Agreement

16 12. "Employer's Share of Payroll Taxes" means Defendant's portion of payroll taxes,
17 including, but not limited to FICA and FUTA, on the portion of the Individual Settlement Awards
18 that constitutes wages.

19 13. "Final Approval Hearing" means the hearing to be conducted by the Court after
20 the filing by Plaintiff of an appropriate motion and following appropriate notice to Class
21 Members giving Class Members an opportunity to request exclusion from the Settlement Class
22 and Settlement or to object to the Settlement, at which time Plaintiff shall request that the Court
23 finally approve the Settlement, enter the Final Order and Judgment, and take other appropriate
24 action.

25 14. "Final Order and Judgment" means the order and judgment to be entered by the
26 Court upon granting final approval of the Settlement and this Stipulation of Settlement as binding
27 upon the Parties and Participating Class Members. A proposed Final Order and Judgment shall
28 be mutually agreed upon by the Parties and submitted to the Court concurrently with Plaintiff's

1 Motion for Final Approval of the Settlement.

2 15. "Final Report" means the report to be prepared by the Settlement Administrator
3 (after the expiration of the 180-day period in which Participating Class Members must
4 cash/deposit their Individual Settlement Award payment checks) regarding the distribution of the
5 Maximum Settlement Amount, including the total amount that was cashed/deposited by
6 Participating Class Members and the total amount of any unpaid residue or unclaimed or
7 abandoned funds pursuant to California Code of Civil Procedure section 384.

8 16. "Individual PAGA Payment" means the amount payable from the PAGA Payment
9 to each Class Member.

10 17. "Individual Settlement Award" means the amount payable from the Net Settlement
11 Amount to each Participating Class Member.

12 18. "Maximum Settlement Amount" means the maximum amount Defendant shall
13 have to pay in connection with this Settlement, by way of a common fund, which shall be
14 inclusive of all Individual Settlement Awards to Participating Class Members, the Class Counsel
15 Award, the Class Representative Service Award, PAGA Payment, and Settlement Administration
16 Costs. Subject to Court approval and the terms of this Stipulation of Settlement, the Maximum
17 Settlement Amount Defendant shall be required to pay is One Million Dollars (\$1,000,000.00).
18 The Maximum Settlement Amount is exclusive of Employer's Share of Payroll Taxes. Defendant
19 has represented that the total number of workweeks from the start of the class period through July
20 30, 2021 is 52,050 workweeks. If the total number of workweeks increases by more than 10% as
21 of the date of Preliminary Approval, then there shall be a corresponding pro-rata increase in the
22 Net Settlement Amount, as defined in paragraph 19 below.

23 19. "Net Settlement Amount" means the Maximum Settlement Amount, less the Class
24 Counsel Award, Class Representative Service Award, PAGA Payment to the California Labor
25 Workforce Development Agency ("LWDA"), and Settlement Administration Costs.

26 20. "Notice of Objection" means a Class Member's valid and timely submission of a
27 written objection to the Settlement to the Settlement Administrator within the Response Deadline.
28 An objection should include: (a) the objector's full name, signature, address, telephone number,

1 and the last four digits of his/her Social Security number, (b) a written statement of all grounds
2 for the objection accompanied by any legal support for such objection, and (c) copies of any
3 papers, briefs, or other documents upon which the objection is based. Objecting Class Members
4 may appear at the Final Approval Hearing either in person, or through counsel retained at Class
5 Member's own expense, to have their objection heard, whether or not they had submitted a prior
6 written objection as specified in this section. The Court will rule on any objections to the
7 settlement at the Final Approval Hearing. An objection may be withdrawn at any time. The
8 Settlement Administrator shall provide objections, if any, to Class Counsel and Defense Counsel
9 via email within three (3) calendar days of receipt, and the Settlement Administrator shall attach
10 any objections to its declaration of due diligence, which is to be filed with the Court prior to the
11 Final Approval Hearing. Any Participating Class Member who files an objection remains eligible
12 to receive monetary compensation from the Settlement. At no time shall any of the Parties, Class
13 Counsel, or Defense Counsel seek to solicit or otherwise encourage or discourage Class Members
14 from submitting a Notice of Objection or filing an appeal from the Final Order and Judgment.

15 21. "PAGA Notice" means the September 16, 2020 letter that Class Counsel sent to
16 the LWDA pursuant to Labor Code §2699.3(a)/(c) seeking to exhaust Plaintiff's administrative
17 remedies under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab.
18 Code §§2698, et seq., and specifically alleging that Defendant failed to pay all wages due to
19 illegal rounding, failed to pay overtime and sick pay at the correct regular rate of pay by failing to
20 incorporate commissions, non-discretionary incentive pay, or any other appropriate amounts into
21 the regular rate of pay; failed to provide meal periods, failed to authorize and permit rest periods,
22 derivatively failed to provide accurate itemized wage statements in violation of the Labor Code
23 and the applicable Industrial Wage Order, failed to timely pay wages, and owes statutory and/or
24 civil penalties pursuant to the Labor Code.

25 22. "PAGA Payment" means the amount of Fifty Thousand Dollars (\$50,000), subject
26 to Court approval, to be paid from the Maximum Settlement Amount for satisfaction of Plaintiff's
27 and Class Members' claims under PAGA. Pursuant to the PAGA, seventy five percent (75%) or
28 Thirty Seven Thousand Five Hundred Dollars (\$37,500.00) of this sum will be paid to the LWDA

1 and Twelve Thousand Five Hundred Dollars (\$12,500.00) will be distributed as the Individual
2 PAGA Payments to Class Members.

3 23. "PAGA Release" or "PAGA Released Claims" means the release by all Class
4 Members for all claims for PAGA that arise out of or relate to California Labor Code sections
5 201-204, 210, 221, 226, 226.7, 245 *et seq.*, 246, 510, 512, 558, 558.1, 1174, 1174.5, 1182.12,
6 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699 *et seq.*, and the applicable wage orders at
7 California Code of Regulations, Title 8, section 11000, *et seq.*, as pled in the PAGA Notice and
8 Complaint in the PAGA Action, from September 16, 2019, through the date of preliminary
9 approval of this Agreement. In light of the binding nature of a PAGA judgment on non-party
10 employees pursuant to *Arias v. Superior Ct. (Dairy)*, 46 Cal. 4th 969 (2009), Class Members
11 employed by Defendant on or after September 16, 2019, who exclude themselves from this
12 Settlement shall still receive an Individual PAGA Payment directly from the Settlement
13 Administrator for the amount of each such individual's estimated share of the PAGA Payment as
14 calculated by the Settlement Administrator.

15 24. "Participating Class Members" means Plaintiff and all other Class Members who
16 do not submit a valid and timely Request for Exclusion.

17 25. "Participating PAGA Members" means all Class Members who submit a valid and
18 timely Request for Exclusion but are nevertheless bound by the PAGA Release.

19 26. "Parties" means Plaintiff and Defendant.

20 27. "Plaintiff" means Plaintiff Denise Rivas.

21 28. "Preliminary Approval Order" means the order to be issued by the Court
22 approving and authorizing the mailing of the Settlement Notice by the Settlement Administrator,
23 setting the date of the Final Approval Hearing and granting preliminary approval of the
24 Settlement set forth in this Stipulation of Settlement, among other things. A proposed Preliminary
25 Approval Order shall be mutually agreed upon by the Parties and submitted to the Court
26 concurrently with Plaintiff's Motion for Preliminary Approval of the Settlement.

27 29. "Released Claims" includes any and all claims, rights, demands, liabilities, and
28 causes of action of every nature and description arising from September 25, 2016, through the

1 date on which the Court grants preliminary approval of the Settlement, including statutory,
 2 contractual, or common law claims, for wages, damages, penalties, liquidated damages, punitive
 3 damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief, arising out of
 4 and based on the following categories of claims that were specifically alleged, or are in substance
 5 the same as or related to those specifically alleged, in Plaintiff's Complaints herein, under
 6 California Labor Code sections 201-204, 210, 221, 226, 226.7, 245 *et seq.*, 246, 510, 512, 558,
 7 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, and 2699 *et seq.*,
 8 Business and Professions Code §§17200-17208, and the applicable wage orders at California
 9 Code of Regulations, Title 8, section 11000, *et seq.*, and: (a) any and all claims for failure to pay
 10 any type of wages, including overtime wages, minimum wages, and/or regular pay, due to
 11 Defendant's rounding policy, any alleged policy or practice of off-the-clock work or alleged
 12 demand or pressure to work through breaks or before or after clocking in, any alleged unlawful
 13 deduction from pay, and any alleged failure to incorporate sick time, commissions, incentive pay,
 14 or nondiscretionary bonuses in regular rate of pay for purposes of calculating overtime; (b) any
 15 and all claims for failure to provide meal breaks and/or premiums in lieu thereof; (c) any and all
 16 claims for failure to authorize and permit rest periods and/or pay premiums in lieu thereof; (d)
 17 any and all claims for failure to furnish accurate itemized wage statements, both derivative and
 18 claims that employee's wage statements failed to include total hours worked, hourly rates in
 19 effect during the pay period, and corresponding number of hours worked at each rate, in violation
 20 of Labor Code §§ 226(a)2), (9); (e) any and all claims for failure to maintain wage and time
 21 records; (f) any and all claims for failure to provide wages when due upon separation of
 22 employment; (g) any and all claims for violation of California Business and Professions Code §§
 23 17200 *et seq.* related only to the above alleged claims; (h) any claims for violation under the Fair
 24 Credit Reporting Act ("FCRA"), 15 U.S.C. §§ 1681 *et seq.*; and (i) any and all claims for violation
 25 of the Private Attorneys General Act of 2004, Labor Code §§2698 *et seq.* as alleged in the PAGA
 26 Complaint.

27 30. "Released Parties" means Defendant, and any of its former and present parents,
 28 subsidiaries, divisions, and affiliated companies, including 8x8, and its respective officers,

1 directors, employees, partners, shareholders, agents, successors, assigns, and legal
2 representatives.

3 31. "Released Claims Period" means from September 25, 2016, through the date the
4 Court issues its Preliminary Approval Order.

5 32. "Request for Exclusion" means a written statement submitted by a Class Member
6 indicating a request to be excluded from the Settlement. The Request for Exclusion must be in
7 writing and should: (i) be signed by the Class Member; (ii) contain the name, address, telephone
8 number, and the last four digits of the Social Security number of the Class Member requesting
9 exclusion; (iii) clearly state that the Class Member does not wish to be included in the Settlement;
10 (iv) be returned by fax or mail to the Settlement Administrator at the specific address and/or
11 facsimile number; and (v) be postmarked or faxed on or before the Response Deadline. The date
12 of the fax or postmark on the return mailing envelope will be the exclusive means to determine
13 whether a Request for Exclusion has been timely submitted. A Class Member who does not
14 request exclusion from the Settlement will be deemed a "Participating Class Member" and will be
15 bound by all terms of the Settlement, if the Settlement is granted final approval by the Court.
16 Any Class Member who validly requests to be excluded from the Settlement will no longer be a
17 member of the Settlement Class and will not have any right to object, appeal, or comment on the
18 Settlement, but will remain as Participating PAGA Member(s), and will receive an Individual
19 PAGA Payment for the PAGA Released Claims. No later than ten (10) calendar days after the
20 Response Deadline, the Settlement Administrator shall provide counsel for the Parties a complete
21 list of all Class Members who submitted a timely and valid Request for Exclusion.

22 33. "Response Deadline" means the deadline by which Class Members must postmark
23 or fax to the Settlement Administrator a valid Request for Exclusion, objection, or workweek
24 dispute. The Settlement Administrator shall continue efforts to properly locate Class Members
25 who have had their Class Notice returned as undeliverable. The Response Deadline will be forty-
26 five (45) calendar days from the initial mailing of the Settlement Notices by the Settlement
27 Administrator unless the 45th day falls on a Sunday or Federal holiday, in which case the
28 Response Deadline will be extended to the next day on which the U.S. Postal Service is open.

1 The Response Deadline for Requests for Exclusion, Objection or workweek disputes will be
2 extended fourteen (14) calendar days for any Class Member who is re mailed a Notice Packet by
3 the Settlement Administrator, unless the 14th day falls on a Sunday or Federal holiday, in which
4 case the Response Deadline will be extended to the next day on which the U.S. Postal Service is
5 open. Under no circumstances, however, will the Administrator have the authority to extend the
6 deadline for Class Members to submit a Request for Exclusion, Notice of Objection or
7 Workweeks Dispute to the settlement.

8 34. "Settlement" means the final and complete disposition of the Action pursuant to
9 this Stipulation of Settlement.

10 35. "Settlement Administrator" or "Administrator" means Simpluris or any other
11 third-party action settlement administrator agreed to by the Parties and approved by the Court for
12 purposes of administering this settlement. The Parties each represent that they will not have any
13 financial interest in the Settlement Administrator or otherwise have a relationship with the
14 Settlement Administrator that could create a conflict of interest.

15 36. "Settlement Administration Costs" means the reasonable costs and fees of
16 administering the Settlement to be paid from the Maximum Settlement Amount, not to exceed
17 Eight Thousand Nine Hundred and Ninety-Nine Dollars (\$8,999.00), including, but not limited
18 to: (i) printing, mailing and re-mailing (if necessary) of Settlement Notices to Class Members;
19 (ii) preparing and submitting to Class Members and government entities all appropriate tax filings
20 and forms; (iii) computing the amount of and distributing Individual Settlement Awards, the
21 Class Representative Service Award, the Class Counsel Award; (iv) processing and validating
22 Requests for Exclusion; (v) establishing a Qualified Settlement Fund, as defined by the Internal
23 Revenue Code; (vi) calculating and remitting to the appropriate government agencies all
24 employer and employee payroll tax obligations arising from the Settlement and preparing and
25 submitting filings required by law in connection with the payments required by the Settlement;
26 and (vii) transmitting uncashed Individual Settlement Award payments to the California State
27 Controller's Unclaimed Property division.

28 37. "Settlement Notice" means the Notice of Class Action Settlement, substantially in

1 the form attached as Exhibit 1, which shall be subject to Court approval and which the Settlement
2 Administrator shall mail to each Class Member containing: (i) information regarding the nature of
3 the Action; (ii) a summary of the Settlement's principal terms; (iii) the Class definitions; (iv) the
4 total number of Workweeks the respective Class Member worked for Defendant (according to
5 Defendant's records); (v) the Class Member's estimated Individual Settlement Award and the
6 formula for calculating Individual Settlement Awards; (vi) the dates which comprise the Class
7 Period; (vii) instructions on how to submit disputes regarding Workweeks, Requests for
8 Exclusion, and/or Notices of Objection; (viii) the Response Deadline; and (ix) the claims to be
9 released pursuant to the Settlement of the Action.

10 38. "Workweeks" means the number of workweeks worked by each Class Member
11 during the Class Period. For purposes of this Settlement, Workweeks will be calculated by
12 counting the number of calendar days between each Class Member's first and last days of work in
13 a Class Position during the Class Period and dividing that sum by seven, without regard to any
14 vacations, periods of illness, or leaves of absence taken during the Class Period.

15 39. "Workweek Dispute" means a written statement that a Class Member disputes the
16 number of Workweeks listed on his/her Settlement Notice. Any such Workweek Dispute must be
17 faxed or mailed to the Settlement Administrator by the Response Deadline. The date of the fax or
18 postmark on the written statement will be the exclusive means to determine whether a Workweek
19 Dispute has been timely submitted. A valid Workweek Dispute must be in writing and should
20 contain: (i) the Class Member's full name, signature, address, telephone number, and the last four
21 digits of his/her Social Security number; (ii) the number of Workweeks the Class Member
22 contends is correct; and (iii) any evidence supporting his/her contention. The dates of
23 employment identified for each Class Member in the applicable Class List will be presumed to be
24 correct, unless a particular Class Member proves otherwise to the Settlement Administrator by
25 credible evidence. All Workweek Disputes will be resolved and decided by the Settlement
26 Administrator, after consultation with counsel for the Parties, and the Settlement Administrator's
27 decision on all Workweek Disputes will be final, subject to the ultimate final approval of the
28 Court if necessary.

41. “Workweek Verification” means Defendant certifies that, according to its records, the approximate number of workweeks for all class members from September 25, 2016, to July 30, 2021, is 52,050 (“Certified Workweek Amount”). If the number of workweeks increases by more than 10% as of the date of Preliminary Approval, then there shall be a corresponding pro-rata increase in the Net Settlement Amount.

9 || 42. Procedural History.

10 a. On September 16, 2020, Plaintiff submitted the PAGA Notice to the
11 LWDA for the purpose of complying with Labor Code §2699.3's notice requirement, giving
12 notice of Plaintiff's intentions to file the PAGA Action.

b. On September 25, 2020, Plaintiff filed the Class Action entitled *Denise Rivas, on behalf of herself and others similarly situated, v. 8X8, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, in Santa Clara County Superior Court (Case No. 20CV370842). Defendant timely removed to United States District Court, Northern District of California, where the case was assigned to Judge Lucy H. Koh, Case No. 5:20-cv-07607-LHK.

c. On December 1, 2020, Plaintiff filed the PAGA Action entitled *Denise Rivas, on behalf of herself and on behalf of all other aggrieved employees v. 8x8, Inc., a Delaware corporation; and Does 1 through 50, inclusive*, alleging one cause of action based on the following claims: (1) penalties under the PAGA for failure to pay minimum wages; (2) civil penalties under the PAGA for failure to pay wages and overtime under Labor Code § 510; (3) civil penalties under the PAGA for meal period liability under Labor Code §§ 512 and 226.7; (4) penalties under the PAGA for rest break liability under Labor Code §§ 226.7 and 512; (5) penalties under the PAGA for failure to provide accurate itemized wage statements under Labor Code § 226(a) and keep accurate payroll records under Labor Code § 1174; and (6) penalties under the PAGA for failure to timely pay all wages owed in violation of Labor Code §§ 203 and 204.

1 d. On September 24, 2021, the Parties participated in a full-day mediation
2 before Steve Rottman, Esq. at which the parties settled the case, which is now confirmed in this
3 long form Settlement Agreement.

4 e. The parties shall seek approval of this Agreement by filing a motion for
5 approval in the Class and PAGA Actions after they are consolidated in state court in
6 accordance with the terms of this Agreement.

7 43. Benefits of Settlement to Plaintiff and the Class Members. Plaintiff and Class
8 Counsel recognize the expense and length of continued proceedings necessary to litigate
9 Plaintiff's disputes in the Actions through trial and through any possible appeals. Plaintiff also
10 has taken into account the uncertainty and risks of the outcome of further litigation, and the
11 difficulties and delays inherent in such litigation. Plaintiff and Class Counsel are also aware of
12 the burdens of proof necessary to establish liability for the claims asserted in the Actions, both
13 generally and in response to Defendant's defenses thereto, and the difficulties in establishing
14 damages, penalties, restitution and other relief sought in the Actions. Plaintiff and Class Counsel
15 also have taken into account Defendant's agreement to enter into a settlement that confers
16 substantial benefits upon the Class Members. Based on the foregoing, Plaintiff and Class Counsel
17 have determined that the Settlement set forth in this Stipulation of Settlement is fair, adequate,
18 and reasonable and is in the best interests of all Class Members.

19 44. Defendant's Reasons for Settlement. Defendant has concluded that further defense
20 of the Action would be protracted and expensive. Substantial amounts of Defendant's time,
21 energy, and resources have been, and unless this Settlement is completed, shall continue to be,
22 devoted to the defense of the claims asserted by Plaintiff. Defendant has also taken into account
23 the risks of further litigation in reaching its decision to enter into this Settlement. Even though
24 Defendant contends it is not liable for any of the claims alleged by Plaintiff in the Actions and
25 denies any liability whatsoever, Defendant, nonetheless, has agreed to settle in the manner and
26 upon the terms set forth in this Stipulation of Settlement and to fully and finally put to rest the
27 claims alleged in the Actions. Defendant has asserted and continues to assert that the claims
28 alleged by Plaintiff have no merit and do not give rise to any liability, damages, restitution,

1 penalties or other payments. This Stipulation of Settlement is a compromise of disputed claims.
2 Nothing contained in this Stipulation of Settlement, no documents referred to herein, and no
3 action taken to carry out this Stipulation of Settlement, shall be construed or used as an admission
4 by or against Defendant as to the merits or lack thereof of the claims asserted in the Action.
5 Defendant contends that it has complied with all applicable state, federal, and local laws. In the
6 event this Settlement does not obtain final approval, Defendant retains all rights it has to defend
7 itself in this matter and to take any actions in defense of itself that are available to it.

8 **CLASS CERTIFICATION**

9 45. Solely for purposes of settling the Actions, and not for purposes of class
10 certification should the Settlement not be approved or for any other reason, the Parties stipulate
11 and agree that the requisites for establishing class certification with respect to the Settlement
12 Class have been met and are met. More specifically, for purposes of settlement only, the Parties
13 stipulate and agree that:

14 a. The Settlement Class is ascertainable and so numerous as to make it
15 impracticable to join all Class Members;

16 b. There are common questions of law and fact including, but not limited to,
17 the following:

- 18 i. Whether Defendant failed to pay employees minimum wages
- 19 ii. Whether Defendant failed to pay employees wages for all hours
20 worked;
- 21 iii. Whether Defendant violated Labor Code §§ 226.7 and 512, and the
22 applicable IWC Wage Orders, by failing to provide employees with
23 requisite meal periods or premium pay in lieu thereof;
- 24 iv. Whether Defendant violated Labor Code §§ 226.7 and the
25 applicable IWC Wage Orders, by failing to provide employees with
26 requisite rest periods or premium pay in lieu thereof;
- 27 v. Whether Defendant violated Labor Code § 226(a):
- 28 vi. Whether Defendant violated Labor Code §§ 1174 and 1174.5;

- 1 vii. Whether Defendant violated Labor Code §§ 221;
- 2 viii. Whether Defendant violated Labor Code §§ 201, 202, 203 by
- 3 failing to pay wages and compensation due and owing at the time of
- 4 termination of employment;
- 5 ix. Whether Defendant violated Business and Professions Code §
- 6 17200 *et seq.*;
- 7 x. Whether employees are entitled to equitable relief pursuant to
- 8 Business and Professions Code § 17200 *et seq.*;
- 9 xi. Whether Defendant's standard FCRA disclosure meets 15 U.S.C. §
- 10 1681b(b)(2)(A)(i)'s "clear and conspicuous disclosure"
- 11 requirement;
- 12 xii. Whether Defendant's standard FCRA disclosure is "in a document
- 13 that consists solely of the disclosure" (15 U.S.C. § 1681
- 14 b(b)(2)(A)(i));
- 15 xiii. Whether Defendant "willfully" violated the FCRA pursuant to 15
- 16 U.S.C. § 1681n.
- 17 c. Class Representative's claims are typical of the claims of the Settlement
- 18 Class;
- 19 d. Class Representative and Class Counsel will fairly and adequately protect
- 20 the interests of the Settlement Class;
- 21 e. The prosecution of separate actions by individual members of the
- 22 Settlement Class would create the risk of inconsistent or varying adjudications, which would
- 23 establish incompatible standards of conduct; and
- 24 f. Questions of law and fact common to the members of the Settlement Class
- 25 predominate over any questions affecting any individual Class Member, and a class action is
- 26 superior to other available means for the fair and efficient adjudication of the controversy.
- 27 46. Should this Settlement not be approved or be terminated, all stipulations set forth
- 28 in the immediately preceding Paragraph shall be null and void and shall not be admissible for any

1 purpose whatsoever.

2 **TERMS OF SETTLEMENT**

3 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements
4 set forth herein, the Parties agree, subject to the Court's approval, as follows:

5 47. Binding Settlement. This Settlement shall bind the Parties and all Participating
6 Class Members and Participating PAGA Members, subject to the terms and conditions hereof and
7 the Court's approval.

8 48. Tax Liability. The Parties make no representations as to the tax treatment or legal
9 effect of the payments specified herein, and Class Members are not relying on any statement or
10 representation by the Parties, Class Counsel, or Defense Counsel in this regard. Participating
11 Class Members, Participating PAGA Members, and Class Counsel understand and agree that they
12 shall be solely and legally responsible for the payment of all applicable taxes and penalties
13 assessed on the payments specified herein.

14 49. Circular 230 Disclaimer. The Parties acknowledge and agree that (i) no provision
15 of this Stipulation of Settlement, and no written communication or disclosure between or among
16 the Parties, Class Counsel, or Defense Counsel and other advisers, is or was intended to be, nor
17 shall any such communication or disclosure constitute or be construed or be relied upon as, tax
18 advice within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10,
19 as amended); (ii) the acknowledging party (a) has relied exclusively upon his, her, or its own,
20 independent legal and tax counsel for advice (including tax advice) in connection with this
21 Stipulation of Settlement, (b) has not entered into this Stipulation of Settlement based upon the
22 recommendation of any other party or any attorney or advisor to any other party, and (c) is not
23 entitled to rely upon any communication or disclosure by any attorney or advisor to any other
24 party to avoid any tax penalty that may be imposed on the acknowledging party; and (iii) no
25 attorney or advisor to any other party has imposed any limitation that protects the confidentiality
26 of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally
27 binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of any
28 transaction, including any transaction contemplated by this Stipulation of Settlement.

1 50. Preliminary Approval of Settlement. Upon remand of the Class Action to state
2 court, Class Counsel will promptly reserve a hearing date in state court as the date for a hearing
3 on Plaintiff's Motion for Preliminary Approval so that the Parties may request provisional
4 certification of the Settlement Class for settlement purposes only and the setting of a Final
5 Approval Hearing date. The Parties agree to work diligently and cooperatively to have this
6 Settlement presented to the Court for preliminary approval. The proposed Order granting
7 Plaintiff's Motion for Preliminary Approval shall be mutually agreed to by the Parties prior to
8 Plaintiff submitting the proposed Order to the Court. The Preliminary Approval Order shall
9 provide for, among other things, the Settlement Notice to be sent to Class Members as specified
10 herein.

11 51. Release by All Participating Class Members. All Participating Class Members,
12 including Plaintiff, shall be deemed to have released their respective Released Claims against the
13 Released Parties upon the Effective Date of this Agreement. Plaintiff and Class Members who do
14 not Request Exclusion will be deemed to have fully, finally, and forever released, settled,
15 compromised, relinquished, and discharged with respect to all of the Released Parties for any and
16 all Released Claims that accrued during the Released Claims Period. The Settlement Class and
17 each Class Member who has not submitted a valid Request for Exclusion, fully releases and
18 discharges the Released Parties for the Released Claims for any period during the Released
19 Claims Period.

20 52. PAGA Release by All Class Members. All Class Members, including Plaintiff and
21 Participating PAGA Members, shall be deemed to have released their respective PAGA Released
22 Claims, premised in whole or in part on any of the claims, facts, or allegations set forth in the
23 PAGA Notice and PAGA Complaint, against the Released Parties upon the date on which the
24 payment of the Maximum Settlement Amount is made by Defendant, as provided in paragraph 55
25 below. It is understood that Class Members will not have the opportunity to opt out of, or object
26 to, the PAGA Release. Further, the Class Members are bounded by the PAGA Release regardless
27 of whether they cash and/or otherwise negotiate their Individual PAGA Payment.

28 53. Additional Release and Waiver of Claims by Plaintiff. In addition to the release of

1 Released Claims against the Released Parties made by all Participating Class Members, as set
2 forth above, Plaintiff, in her individual capacity, agrees to release the Released Parties from any
3 and all claims, known and unknown, under federal, state and/or local law, statute, ordinance,
4 regulation, common law, or other source of law, arising as of the date of execution of this
5 Agreement including but not limited to claims arising from or related to her employment with
6 Defendant and her compensation while an employee of the Defendant ("Plaintiff's Released
7 Claims").

8 Plaintiff's Released Claims include all claims, whether known or unknown. Even if
9 Plaintiff discovers facts in addition to or different from those that she now knows or believes to
10 be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
11 released and forever barred. To effect a full and complete general release as described above,
12 Plaintiff expressly waives and relinquishes all rights and benefits of section 1542 of the Civil
13 Code of the State of California, and does so understanding and acknowledging the significance
14 and consequence of specifically waiving section 1542. Section 1542 of the Civil Code of the
15 State of California states as follows:

16 **A general release does not extend to claims that the creditor or**
17 **releasing party does not know or suspect to exist in his or her**
18 **favor at the time of executing the release and that, if known by**
19 **him or her, would have materially affected his or her settlement**
20 **with the debtor or released party.**

21 Thus, notwithstanding the provisions of section 1542, and to implement a full and
22 complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this
23 Stipulation of Settlement is intended to include in its effect, without limitation, all claims Plaintiff
24 does not know or suspect to exist in Plaintiff's favor at the time of signing this Stipulation of
25 Settlement, and that this Stipulation of Settlement contemplates the extinguishment of any such
26 claims. Plaintiff warrants that she has read this Stipulation of Settlement, including this waiver of
27 California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to
28 consult with counsel of Plaintiff's choosing about this Stipulation of Settlement and specifically

1 about the waiver of section 1542, and that Plaintiff understands this Stipulation of Settlement and
2 the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Stipulation of
3 Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or
4 in addition to those Plaintiff now knows or believes to be true regarding the matters released or
5 described in this Stipulation of Settlement, and even so Plaintiff agrees that the releases and
6 agreements contained in this Stipulation of Settlement shall remain effective in all respects
7 notwithstanding any later discovery of any different or additional facts. Plaintiff expressly
8 assumes any and all risk of any mistake in connection with the true facts involved in the matters,
9 disputes, or controversies released or described in this Stipulation of Settlement or with regard to
10 any facts now unknown to Plaintiff relating thereto.

11 54. Settlement Administration.

12 a. Within thirty (30) calendar days of entry of the Preliminary Approval
13 Order, Defendant shall provide the Settlement Administrator with the Class Lists for purposes of
14 mailing the Settlement Notices to Class Members, along with data indicating the number of
15 workweeks worked by each class member during the relevant class period. The Settlement
16 Administrator shall not be permitted to share any Class Information included in the Class Lists
17 with Plaintiff or Class Counsel absent express approval by Defendant or Defense Counsel.

18 i. Notice by First Class U.S. Mail. Upon receipt of the Class Lists,
19 the Settlement Administrator shall perform a search based on the
20 National Change of Address Database maintained by the United
21 States Postal Service to update and correct any known or
22 identifiable address changes. Within fourteen (14) calendar days
23 after receiving the Class Lists from Defendant as provided herein,
24 the Settlement Administrator shall mail copies of the Settlement
25 Notice to all Class Members via regular First-Class U.S. Mail. The
26 Settlement Administrator shall exercise its best judgment to
27 determine the current mailing address for each Class Member. The
28 address identified by the Settlement Administrator as the current

1 mailing address shall be presumed to be the most current mailing
2 address for each Class Member. The Parties agree that this
3 procedure for notice provides the best notice practicable to Class
4 Members and fully complies with due process.

5 ii. Undeliverable Settlement Notices. Any Settlement Notice returned
6 to the Settlement Administrator as non-deliverable on or before the
7 Response Deadline shall be re mailed to the forwarding address
8 affixed thereto within five (5) calendar days of receipt of the
9 returned Settlement Notice by the Settlement Administrator. If no
10 forwarding address is provided, the Settlement Administrator shall
11 attempt to determine a correct address by the use of skip-tracing, or
12 other type of automated search, using the name, address and/or
13 Social Security number of the Class Member involved, and shall
14 then perform a re-mailing to the Class Member whose Settlement
15 Notice was returned as non-deliverable within five (5) calendar
16 days of receipt of the returned Settlement Notice by the Settlement
17 Administrator, assuming another mailing address is identified by
18 the Settlement Administrator. Class Members who are sent a re-
19 mailed Settlement Notice shall have their Response Deadline
20 extended by fourteen (14) calendar days from the date the
21 Settlement Administrator re-mails the Settlement Notice. If these
22 procedures are followed, notice to Class Members shall be deemed
23 to have been fully satisfied, and if the intended recipient of the
24 Settlement Notice does not receive the Settlement Notice, the
25 intended recipient shall nevertheless remain a Class Member and
26 shall be bound by all terms of the Settlement and the Final Order
27 and Judgment.
28

1 iii. Determination of Individual Settlement Awards and Individual
2 PAGA Payments. The Settlement Administrator shall determine
3 the eligibility for, and the amounts of, each Individual Settlement
4 Award and Individual PAGA Payment under the terms of this
5 Stipulation of Settlement. The Settlement Administrator's
6 determination of the eligibility for and amount of each Individual
7 Settlement Award and Individual PAGA Payment shall be binding
8 upon the Class Members and the Parties, subject to the Court's
9 ultimate approval and oversight. In the absence of fraud or gross
10 negligence, Defendant's Workweek estimates shall be presumed
11 accurate.

12 iv. Disputes Regarding Administration of Settlement. Any dispute not
13 resolved by the Settlement Administrator concerning the
14 administration of the Settlement shall be resolved by the Court.

15 b. Monitoring and Reviewing Settlement Administration. The Parties have
16 the right to monitor and review the administration of the Settlement to verify that the monies
17 allocated under the Settlement are distributed in the correct amount, as provided for in this
18 Stipulation of Settlement.

19 c. Certification Reports Regarding Individual Settlement Award Calculations.
20 The Settlement Administrator will provide Defense counsel and Class Counsel a weekly report
21 which certifies: (i) the number of Class Members who have submitted valid Requests for
22 Exclusion or objections; and (ii) whether any Class Member has submitted a challenge to any
23 information contained in their Settlement Notice, including but not limited to the number of Class
24 Members from the Settlement Class who have submitted a Workweek Dispute. Additionally, the
25 Settlement Administrator will provide to counsel for both Parties any updated reports regarding
26 the administration of the Settlement Agreement as needed or requested.

27 d. Best Efforts. The Parties agree to use their best efforts to carry out the
28 terms of this Settlement.

1 55. Funding and Allocation of Maximum Settlement Amount. The Maximum
2 Settlement Amount, together with the amount the Settlement Administrator has determined or
3 estimated to be Defendant's share of employer taxes due on the wages being paid under the
4 Settlement, shall be paid by Defendant in one lump sum payment within thirty (30) calendar days
5 after the Effective Date. Defendant shall provide the Maximum Settlement Amount to the
6 Settlement Administrator in any feasible manner, including, but not limited to, by way of a wire
7 transfer. Within fifteen (15) calendar days thereafter, the Settlement Administrator will distribute
8 the payments to Plaintiff for her awarded Class Representative Service Award, to Class Counsel
9 for their awarded attorneys' fees and costs, PAGA Payment to the LWDA, Individual Settlement
10 Payment to the Participating Class Members, and PAGA Payment to the Participating PAGA
11 Members. If this Settlement is not finally approved by the Court in full, or is terminated,
12 rescinded, canceled, or fails to become effective for any reason, or if the Effective Date does not
13 occur, then no portion of the Maximum Settlement Amount shall be paid.

14 a. Payments to the Settlement Class. Class Members shall not be required to
15 submit a claim in order to receive a share of the Net Settlement Amount, and no portion of the
16 Maximum Settlement Amount shall revert to Defendant or result in an unpaid residue. The
17 Settlement Administrator shall first compute the Net Settlement Amount by deducting from the
18 Maximum Settlement Amount approved by the Court the Class Counsel Award, Class
19 Representative Service Award, PAGA Payment to the LWDA, and Settlement Administration
20 Costs. To the extent the Court does not approve the full requested attorneys' fees, litigation costs,
21 service award or settlement administration costs, the Net Settlement Amount will increase
22 accordingly, by the difference between the request amount and the amount awarded by the Court.

23 i. Individual Settlement Award: From the Net Settlement Amount, the
24 Settlement Administrator will calculate each Individual Settlement
25 Award by dividing the Net Settlement Amount by the total number
26 of workweeks for the Class resulting in the Workweek Value and
27 then multiplying the Workweek Value by the number of
28 Workweeks worked by each Class Member. All Participating Class

Members will be entitled to payment for at least one Workweek. Defendant will provide the total number of Workweeks for each Class Member to the Settlement Administrator. The Settlement Administrator will calculate the number of Workweeks worked by the Class Members in each Subclass during the Class Period, the amount to be paid per Workweek, and the Individual Settlement Awards to eligible Class Members. All Workweek Disputes will be resolved and decided by the Settlement Administrator and the Settlement Administrator's decision on all Workweek Disputes will be final and non-appealable, subject to the Court's ultimate approval and oversight.

- ii. Individual PAGA Payment: The Settlement Administrator will calculate each Class Member's Individual PAGA Payment by dividing the 25% of the PAGA Payment to be distributed to Class Members, i.e. Twelve Thousand Five Hundred Dollars (\$12,500) by the total number of Workweeks for the entire Settlement Class resulting in the PAGA Workweek Value; and then multiplying the PAGA Workweek Value by the number of Workweeks worked by each Participating PAGA Member. All Participating PAGA Members will be entitled to payment for at least one Workweek.
- iii. Each Participating Class Member's Individual Settlement Award and each Participating PAGA Member's Individual PAGA Payment shall be calculated solely by the Settlement Administrator using Defendant's Workweek data. Defendant's Workweek data will be presumed to be correct, unless a particular Class Member proves otherwise to the Settlement Claims Administrator by credible evidence. All Workweek Disputes will be resolved and decided by the Settlement Administrator and the Settlement

1 Administrator's decision on all Workweek Disputes will be final
2 and non-appealable, subject to the Court's ultimate approval.

3 iv. Individual Settlement Awards and Individual PAGA Payments
4 shall be mailed by the Settlement Administrator by regular First
5 Class U.S. Mail to each Participating Class Member/Participating
6 PAGA Member's last known mailing address within fifteen (15)
7 calendar days after Defendant provides the Settlement
8 Administrator with the Maximum Settlement Amount. Prior to
9 mailing the Individual Settlement Awards and the Individual PAGA
10 Payments, the Settlement Administrator shall perform a search
11 based on the National Change of Address Database maintained by
12 the United States Postal Service to update and correct any known or
13 identifiable address changes.

14 v. Should any of the following occur, the Settlement Administrator
15 will proportionately increase the estimated Individual Settlement
16 Award of each Participating Class Member to ensure that the entire
17 Net Settlement Amount is distributed to Participating Class
18 Members: (i) any Class Members submit timely and valid, or
19 otherwise accepted, Requests for Exclusion following the provision
20 of Settlement Notices and expiration of the Response Deadline; (ii)
21 the Court approves the Class Representative Service Award in
22 amounts less than those requested by Plaintiff, as detailed herein;
23 (iii) the Court approves a Class Counsel Award in an amount less
24 than that requested by Plaintiff, as detailed herein; and/or (iv) the
25 Court approves Settlement Administration Costs in an amount less
26 than that requested by Plaintiff, as detailed herein.

27 vi. Individual Settlement Award Payments and Individual PAGA
28 Payments shall be made by check and shall be made payable to

each Participating Class Member and Participating PAGA Member as set forth in this Stipulation of Settlement.

vii. Individual Settlement Awards shall be allocated as follows: 25% as alleged unpaid wages subject to all applicable tax withholdings; and 75% as alleged unpaid interest and unpaid penalties. The Settlement Administrator shall issue an IRS Form W-2 to each Participating Class Member for the portion of each Individual Settlement Award Payment allocated as alleged unpaid wages and subject to all applicable tax withholdings. The Settlement Administrator shall issue an IRS Form 1099 to each Class Member for the remaining portion of each Individual Settlement Award and for the Individual PAGA Payment, which are allocated as alleged unpaid non-wage penalties and interest and not subject to payroll tax withholdings. The Settlement Administrator shall calculate the amount of the Employer's Share of Payroll Taxes and shall remit and report the applicable portions of the payroll tax payment to the appropriate taxing authorities in a timely manner. Defendant will be responsible for paying its share of the Payroll Taxes and this amount will not be deducted from the Maximum or Net Settlement Amount.

viii. Any Individual Settlement Award Payment Check and/or Individual PAGA Payment check issued by the Settlement Administrator to Participating Class Members and Participating PAGA Members must be cashed within 180 days after issuance. After the expiration of the 180-day period, the Settlement Administrator will prepare the Final Report regarding the distribution of the Maximum Settlement Amount, including the total amount that was cashed/deposited by Participating Class Members and Participating PAGA Members

1 and the total amount of any uncashed settlement checks pursuant to
2 California Code of Civil Procedure section 384. After the Final
3 Report is filed, the total amount of any uncashed settlement checks
4 shall be paid to the California State Controller's Unclaimed
5 Property division to be held pursuant to the Unclaimed Property
6 Law, California Civil Code § 1500 *et seq.*

7 ix. In the event a Class Member fails to cash/deposit his or her
8 Individual Settlement Award check and/or Individual PAGA
9 Payment check, for whatever reason, the Class Member shall
10 nevertheless remain bound by the Settlement.

11 x. All monies received by Participating Class Members under the
12 Settlement which are attributable to wages shall constitute income
13 to such Participating Class Members solely in the year in which
14 such monies actually are received by the Participating Class
15 Members. It is expressly understood and agreed that the receipt of
16 Individual Settlement Awards shall not entitle any Participating
17 Class Member to additional compensation or benefits under any
18 collective bargaining agreement or under any bonus, contest or
19 other compensation or benefit plan or agreement in place during the
20 period covered by the Settlement, nor shall it entitle any
21 Participating Class Member to any increased pension and/or
22 retirement, or other deferred compensation benefits. It is the intent
23 of the Parties that the Individual Settlement Awards and Individual
24 PAGA Payments provided for in this Stipulation of Settlement are
25 the sole payments to be made by Defendant to Class Members in
26 connection with this Settlement, with the exception of Plaintiff, and
27 that the Class Members are not entitled to any new or additional
28 compensation or benefits as a result of having received the

1 Individual Settlement Awards and/or and Individual PAGA
2 Payments. Furthermore, the receipt of Individual Settlement
3 Awards and Individual PAGA Payments by Class Members shall
4 not, and does not, by itself establish any general, special, or joint
5 employment relationship between and among the Class Member(s)
6 and Defendant.

7 b. Class Representative Service Award. For the purposes of this Settlement
8 only, the Parties agree to the designation of Plaintiff Denise Rivas as the Class/PAGA
9 Representative. In recognition of her time and effort in bringing and presenting the Action and for
10 releasing her Released Claims, Plaintiff shall request the Class Representative Service Award not
11 to exceed Ten Thousand Dollars (\$10,000) to Denise Rivas. Plaintiff's request for such Class
12 Representative Service Award shall be subject to approval from the Court. Defendant agrees not
13 to oppose or object to Plaintiff's request for Class Representative Service Award in an amount not
14 to exceed this amount. The Class Representative Service Award will be in addition to Plaintiff's
15 Individual Settlement Payment paid pursuant to the Settlement. The Settlement Administrator
16 shall issue an IRS Form 1099 to Plaintiff for her Class Representative Service Award. Plaintiff
17 shall be solely and legally responsible to pay any and all applicable taxes on her Class
18 Representative Service Award. Any amount requested by Plaintiff for the Class Representative
19 Service Award and not awarded by the Court shall become part of the Net Settlement Amount
20 and shall be distributed to Participating Class Members as part of their Individual Settlement
21 Awards.

22 c. Class Counsel Award. Class Counsel shall be entitled to request attorneys'
23 fees in an amount not to exceed one-third (33.33%) of the Maximum Settlement Amount, which
24 amounts to Three Hundred Thirty Thousand Dollars and Thirty Three Cents (\$333,333.33). In
25 addition, Class Counsel shall also be entitled to request an award of costs associated with Class
26 Counsel's prosecution of the Action not to exceed Thirty Thousand Dollars (\$30,000). Class
27 Counsel's request for such attorneys' fees and costs shall be subject to approval from the Court.
28 Defendant agrees not to oppose or object to Class Counsel's request for attorneys' fees or to

Counsel's request for attorneys' costs up to these amounts. In the event the Court awards Class Counsel less than Three Hundred Thirty Thousand Dollars and Thirty Three Cents (\$333,333.33) in attorneys' fees and/or less than Thirty Thousand Dollars (\$30,000) in costs, the difference shall become part of the Net Settlement Amount and shall be distributed to Participating Class Members as part of their Individual Settlement Awards. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the Class Counsel Award. Class Counsel shall provide the Settlement Administrator with properly completed and signed copies of IRS Form W-9 in order for the Settlement Administrator to process the Class Counsel Award approved by the Court. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel for the Class Counsel Award.

56. Settlement Administration Costs. The Settlement Administration fees and expenses, which are estimated not to exceed Eight Thousand Nine Hundred and Ninety-Nine Dollars (\$8,999.00), shall be paid from the Maximum Settlement Amount. Prior to Plaintiff filing a Motion for Final Approval of the Settlement, the Settlement Administrator shall provide the Parties with a statement detailing the Settlement Administration Costs to date. The Parties agree to cooperate in the Settlement Administration process and to make all reasonable efforts to control and minimize Settlement Administration Costs.

a. The Parties each represent they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

b. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities required by the Settlement. The Settlement Administrator shall be authorized to establish a Qualified Settlement Fund ("QSF") pursuant to IRS rules and regulations in which the Maximum Settlement Amount shall be placed and from which payments required by the Settlement shall be made.

57. Payroll Taxes. In accordance with this Settlement and to the fullest extent possible, the Maximum Settlement Amount shall resolve, satisfy and completely extinguish all of Defendant's liability with respect to the Class Members, except that the Defendant shall solely be

1 responsible for the employer portion of the payroll taxes on the portion of the Individual
2 Settlement Awards that constitutes wages, and these taxes shall be paid by the Defendant in
3 addition to the Maximum Settlement Amount. Upon the transfer of the Maximum Settlement
4 Amount and the employer portion of payroll taxes on the portion of the Individual Settlement
5 Awards that constitutes wages, Defendant shall have no further payment or defense obligation
6 whatsoever with respect to any claims covered by this Settlement made or asserted by any person
7 or entity anywhere in the world in connection with the Class Members.

8 58. Final Settlement Approval Hearing and Entry of Final Order and Judgment.

9 Following expiration of the Response Deadline, a Final Approval Hearing shall be conducted by
10 the Court for the Court to determine whether to grant final approval of the Settlement, including
11 determining the amounts properly payable for: (i) the Class Counsel Award; and (ii) the Class
12 Representative Service Award. At least sixteen (16) court days prior to the Final Approval
13 Hearing, the Settlement Administrator shall provide a written report or declaration to the Parties
14 describing the process and results of the administration of the Settlement to date, which report or
15 declaration shall be filed by Plaintiff with the Court prior to the Final Approval Hearing. The
16 Parties agree to work diligently and cooperatively to have this Settlement presented to the Court
17 for final approval.

18 59. Duties of the Parties Prior to Court Approval. Promptly upon execution of this
19 Settlement Agreement, the Parties shall stipulate to remand the Class Action to state court (Santa
20 Clara Superior Court), and upon remand, shall take all steps necessary to consolidate the Class
21 Action and PAGA Action before the same state court. The Parties shall then promptly submit this
22 Settlement Agreement to the Court in support of Plaintiff's Motion for Preliminary Approval and
23 determination by the Court as to its fairness, adequacy, and reasonableness. The Parties shall
24 apply to the Court for the entry of an order scheduling a fairness hearing on the question of
25 whether the proposed settlement, including payment of attorneys' fees and costs, the Class
26 Representative's Service Award payment, and the PAGA Payment, should be finally approved as
27 fair, reasonable and adequate as to the members of the Settlement Class. As part of Plaintiff's
28 Motion for Preliminary Approval, Plaintiff shall also apply to the Court for the entry of an Order

1 as follows:

- 2 a. Certifying the Settlement Class for settlement purposes only;
- 3 b. Approving, as to form and content, the proposed Settlement Notice and
- 4 Request for Exclusion;
- 5 c. Approving the manner and method for Class Members to object or request
- 6 exclusion from the Settlement, as contained herein and within the Settlement Notice;
- 7 d. Directing the mailing of the Settlement Notices to Class Members, by first
- 8 class mail;
- 9 e. Preliminarily approving the Settlement subject only to the objections of
- 10 Class Members and final review by the Court; and
- 11 f. Setting a Final Approval Hearing.

12 60. Duties of the Parties Following Final Approval. Following final approval by the

13 Court of the Settlement provided for in this Settlement Agreement, Class Counsel will submit a

14 proposed Final Order and Judgment:

- 15 a. Approving the Settlement, adjudging the terms thereof to be fair,
- 16 reasonable and adequate, and directing consummation of its terms and provisions;
- 17 b. Approving Class Counsel's application for an award of attorneys' fees and
- 18 costs;
- 19 c. Approving the Class Representative Service Award payment to Plaintiff;
- 20 d. Setting a date when the Parties shall submit the Final Report regarding the
- 21 distribution of the Maximum Settlement Amount pursuant to California Code of Civil Procedure
- 22 section 384, and, if necessary, a date for a final accounting hearing following its receipt of the
- 23 Final Report;
- 24 e. Entering judgment in this Action barring and enjoining all members of the
- 25 Settlement Class from prosecuting against any of the Released Parties, any individual or class, or
- 26 representative claims released herein pursuant to the Settlement Agreement, upon satisfaction of
- 27 all payments and obligations hereunder.

28 61. Revocation of Settlement by Defendant. If ten percent (10%) or more of Class

1 Members opt-out of the Class, Defendant shall have the sole and absolute discretion to
2 rescind/void the Settlement Agreement within fourteen (14) days after receiving from the
3 Settlement Administrator the final list of opt-outs, which the Settlement Administrator will do
4 within fourteen (14) days after the deadline for submission of the Requests for Exclusion.
5 Defendant agrees to meet and confer in good faith with Class Counsel before rescinding or
6 voiding the Settlement Agreement. In the event that Defendant elects to rescind/void the
7 Settlement Agreement, it shall provide written notice of such rescission to Class Counsel. Such
8 rescission shall have the same effect as a termination of this Settlement Agreement for failure to
9 satisfy a condition of settlement, and the Settlement Agreement shall become null and void and
10 have no further force or effect, and the Settlement Class certified pursuant to this Settlement
11 Agreement will be decertified for all purposes. If Defendant chooses to terminate this Settlement
12 Agreement under this provision, it shall be responsible to pay the Settlement Administrator's fees
13 and costs incurred to that point. No party will encourage any Class Member to opt out of the
14 Settlement.

15 62. Nullification of Settlement. In the event: (i) the Court does not enter the
16 Preliminary Approval Order; (ii) the Court does not grant final approval of the Settlement; (iii)
17 the Court does not enter the Final Order and Judgment; or (iv) the Settlement does not become
18 final for any other reason, this Stipulation of Settlement shall be rendered null and void, any order
19 or judgment entered by the Court in furtherance of this Settlement shall be treated as void from
20 the beginning and this Stipulation of Settlement and any documents related to it shall not be used
21 by any Class Member or Class Counsel to support any claim or request for class certification in
22 the Action, and shall not be used in any other civil, criminal or administrative action against
23 Defendant or any of the other Released Parties. Additionally, should the Settlement not become
24 final for any reason, the Parties will request that the Court reopen proceedings within thirty (30)
25 calendar days, and any Settlement Administration Costs already incurred by the Settlement
26 Administrator shall be split evenly amongst the Parties. If Defendant elects to revoke the
27 Settlement, as specified in Paragraph 61, the Parties and any monies required to be paid under this
28 Settlement shall be returned to their respective statuses as of the date and time immediately prior

1 to the execution of this Stipulation of Settlement, and the Parties shall proceed in all respects as if
2 this Stipulation of Settlement had not been executed, except that any Settlement Administration
3 Costs already incurred by the Settlement Administrator shall be paid to the Settlement
4 Administrator by Defendant. In the event an appeal is filed from the Court's Final Order and
5 Judgment, or any other appellate review is sought, administration of the Settlement shall be
6 stayed pending final resolution of the appeal or other appellate review and the stay shall only be
7 lifted if the end result of the appeal or other proceeding is that the terms of this settlement
8 agreement are upheld.

9 63. Plaintiff's Waiver of Right to Be Excluded. Plaintiff agrees that by signing this
10 Settlement Agreement, she will be bound by the terms herein. Plaintiff further agrees that, upon
11 signing this Settlement Agreement, she will not request to be excluded from this Settlement and
12 that any such request for exclusion by Plaintiff will be void and of no force or effect.

13 64. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
14 class certification for purposes of this Settlement only; and either party may appeal any court
15 order that materially alters the Settlement Agreement's terms. Nothing in this Settlement
16 Agreement shall preclude Plaintiff from appealing from a court order denying or failing to grant
17 in full her requests for attorneys' fees, costs, or service award.

18 65. No Admission by Defendant. Defendant denies all claims alleged in this Action
19 and denies all wrongdoing whatsoever by Defendant. Neither this Stipulation of Settlement, nor
20 any of its terms and conditions, nor any of the negotiations connected with it, is a concession or
21 admission, and none shall be used against Defendant as an admission or indication with respect to
22 any claim of any fault, concession, or omission by Defendant or that class certification is proper
23 under the standard applied to contested certification motions. The Parties stipulate and agree to
24 the certification of the proposed class for settlement purposes only. The Parties further agree that
25 this Stipulation of Settlement will not be admissible in this or any other proceeding as evidence
26 that either (i) a class action should be certified or (ii) Defendant is liable to Plaintiff or any Class
27 Member, other than according to the terms of this Stipulation of Settlement.
28

1 66. Publicity.

2 a. Prior to the Filing of Plaintiff's Motion for Preliminary Approval. Class
3 Representative and Class Counsel will not make any public disclosures of any kind regarding the
4 Settlement, this Stipulation of Settlement, including but not limited to postings on Class
5 Counsel's websites and postings on any social media sites/outlets, until after the Motion for
6 Preliminary Approval is filed. Class Counsel will take all steps necessary to ensure the Class
7 Representative is aware of, and will encourage her to adhere to, the restriction against any public
8 disclosures regarding the Settlement, this Stipulation of Settlement, and the Confidential
9 Memorandum of Understanding executed on September 24, 2021, until after the Motion for
10 Preliminary Approval is filed. Further, Class Counsel will not include, reference, or use the
11 Settlement for any marketing or promotional purposes, or for attempting to influence business
12 relationships at 8x8, Inc., either before or after the Motion for Preliminary Approval is filed.

13 b. Following the Court's Order Granting Preliminary Approval. Class
14 Representative and Class Counsel will not initiate any communications with the media or third
15 parties, and, if contacted by the media or third parties, will only discuss information publicly
16 available. Class Counsel will take all steps necessary to ensure the Class Representative is aware
17 of, and will encourage her to adhere to, the restriction against initiating any media comment.
18 Class Counsel further agrees not to use the Settlement or any of its terms for any marketing or
19 promotional purposes. Nothing herein will restrict Class Counsel from including publicly
20 available information regarding this settlement in future judicial submissions regarding Class
21 Counsel's qualifications and experience. Further, as stated above, Class Counsel will not include,
22 reference or use the Settlement for any marketing or promotional purposes, or for attempting to
23 influence business relationships at 8x8, Inc., either before or after the Motion for Preliminary
24 Approval is filed. Nothing herein will restrict Plaintiff or Class Counsel from communicating
25 with putative members of the Settlement Class about the Settlement following the Court's Order
26 granting Preliminary Approval.

27 67. Waiver. No waiver of any condition or covenant contained in this Settlement
28 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered

1 to imply or constitute a further waiver by such party of the same or any other condition, covenant,
2 right, or remedy.

3 68. Judgment and Continued Jurisdiction. Upon final approval of the Settlement by
4 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
5 Judgment to the Court for its approval, pursuant to Rule 3.770 of the California Rules of Court.
6 After entry of the Judgment, the Court will have continuing jurisdiction solely for purposes of
7 addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) Settlement
8 administration matters, and (iii) such post-Judgment matters as may be appropriate under court
9 rules or as set forth in this Agreement.

10 69. Exhibits and Headings. The terms of this Stipulation of Settlement include the
11 terms set forth in any attached Exhibits, which are incorporated by this reference as though fully
12 set forth herein. The Exhibits to this Stipulation of Settlement are an integral part of the
13 Settlement. The descriptive headings of any paragraphs or sections of this Stipulation of
14 Settlement are inserted for convenience of reference only.

15 70. Amendment or Modification. This Stipulation of Settlement may be amended or
16 modified only by a written instrument signed by counsel for all Parties or their successors-in-
17 interest.

18 71. Entire Agreement. This Stipulation of Settlement and any attached Exhibits
19 constitute the entire agreement between the Parties, and no oral or written representations,
20 warranties, or inducements have been made to Plaintiff or Defendant concerning this Stipulation
21 of Settlement or its Exhibits other than the representations, warranties, and covenants contained
22 and memorialized in this Stipulation of Settlement and its Exhibits. No other prior or
23 contemporaneous written or oral agreements may be deemed binding on the Parties.

24 72. Authorization to Enter Into Settlement Agreement. Class Counsel and Defense
25 Counsel warrant and represent they are expressly authorized by the Parties whom they represent
26 to negotiate this Stipulation of Settlement and to take all appropriate actions required or permitted
27 to be taken by such Parties pursuant to this Stipulation of Settlement to effectuate its terms, and to
28 execute any other documents required to effectuate the terms of this Stipulation of Settlement.

1 The Parties, Class Counsel, and Defense Counsel shall cooperate with each other and use their
2 best efforts to carry out the implementation of the Settlement. In the event the Parties are unable
3 to reach agreement on the form or content of any document needed to implement the Settlement,
4 or on any supplemental provisions that may become necessary to effectuate the terms of this
5 Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The
6 person signing this Stipulation of Settlement on behalf of the Defendant represents and warrants
7 that he/she is authorized to sign this Stipulation of Settlement on behalf of Defendant. Plaintiff
8 represents and warrants that she is authorized to sign this Stipulation of Settlement and that she
9 has not assigned any claim, or part of a claim, covered by this Stipulation of Settlement to a third
10 party. The Parties have cooperated in the drafting and preparation of this Stipulation of
11 Settlement. Hence, in any construction made of this Stipulation of Settlement, the same shall not
12 be construed against any of the Parties.

13 73. Binding on Successors and Assigns. This Stipulation of Settlement shall be
14 binding upon, and inure to the benefit of, the successors and assigns of the Parties.

15 74. California Law Governs. All terms of this Stipulation of Settlement and the
16 Exhibits hereto shall be governed by and interpreted according to the laws of the State of
17 California, without giving effect to any law that would cause the laws of any jurisdiction other
18 than the State of California to be applied.

19 75. Counterparts. This Stipulation of Settlement may be executed in one or more
20 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
21 instrument.

22 76. This Settlement is Fair, Adequate, and Reasonable. Plaintiff represents that this
23 Settlement is a fair, adequate, and reasonable settlement of the Action and she has arrived at this
24 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
25 present and potential.

26 77. Jurisdiction of the Court. Following entry of the Final Order and Judgment, the
27 Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement
28 of the terms of this Stipulation of Settlement and all orders and judgments entered in connection

1 therewith, and the Parties, Class Counsel, and Defense Counsel shall submit to the jurisdiction of
 2 the Court for purposes of interpreting, implementing, and enforcing the Settlement embodied in
 3 this Stipulation of Settlement and all orders and judgments entered in connection therewith.

4 78. Invalidity of Any Provision. Before declaring any term or provision of this
 5 Stipulation of Settlement invalid, the Parties request that the Court first attempt to construe the
 6 terms or provisions valid to the fullest extent possible consistent with applicable precedents so as
 7 to define all provisions of this Stipulation of Settlement as valid and enforceable. In the event the
 8 Court declares any material provision of this Stipulation of Settlement invalid, the Stipulation of
 9 Settlement will be void and its terms will be of no force and effect, except as otherwise agreed to
 10 by the Parties in writing.

11 79. Binding Nature of Notice of Class Action Settlement. It is agreed that, because the
 12 Class Members are so numerous, it is impossible or impractical to have each Class Member
 13 execute the Stipulation of Settlement. The Class Notice shall advise all Class Members of the
 14 binding nature of the Settlement, and the release of Released Claims shall have the same force
 15 and effect as if this Stipulation of Settlement were executed by each Participating Class Member.

16 80. Notice to LWDA. Class Counsel shall take of submitting any required notices of
 17 this Agreement to the LWDA, as may be required by Labor Code sections 2699(1)(2) and (3).

18 IN WITNESS WHEREOF, the Parties hereto knowingly and voluntarily executed this
 19 Joint Stipulation of Class Action and PAGA Settlement and Release between Plaintiff, on the one
 20 hand, and Defendant, on the other hand, as of the date(s) set forth below:

21 Dated: 11/12/2021 _____

DocuSigned by:

 57548770A62B416...

Plaintiff Denise Rivas

23 Dated: November 23, 2021 _____

8x8, INC.

DS


Matt Zinn, General Counsel

APPROVED AS TO FORM:

Dated: 11/12/2021

DAVID YEREMIAN & ASSOCIATES, INC.
DAVTYAN LAW FIRM, INC.

BY:

DAVID YEREMIAN

ROMAN SHKODNIK
EMIL DAVTYAN

Attorneys for Plaintiff DENISE RIVAS

GBG LLP

Dated: November 23, 2021

BY:

JEN CORNELL
TERESA W. GHALI

Attorneys for Defendant 8X8, INC.